

REMARKS

Status of the claims

Claims 1, 2, and 4-8 are pending in the application. Claim 3 was previously cancelled. Claims 5 and 7 remain withdrawn. Claim 8 is amended herein to depend from claim 1. No new matter has been added or new issues raised by way of the amendment. As such, entry and consideration thereof are respectfully requested.

Rejection under 35 U.S.C. §112, 2nd paragraph

Claim 8 stands rejected as lacking proper antecedent basis so as to depend from claim 2. Claim 8 has been amended to depend from claim 1. As such, withdrawal of the rejection is respectfully requested.

Rejections under 35 U.S.C. §103

The Examiner maintains the rejection of claims 1, 2, 4, 6 and 8 under 35 U.S.C. §103 as being obvious over Liu et al. combined with Balazs. In response to Applicants' arguments of August 25, 2010, the Examiner asserts that Balazs teaches the following:

- a) How to modify a high MW fraction of hyaluronate having a MW of 1-4.5 million Da to fractions of lower MW in order to treat different layers of the skin.
- b) Low MW fractions penetrate more deeply into the skin and provide moisture to the deep layers, therefore one skilled in the art would not expect a low MW fraction to have an affect on surface cracks in the skin. (column 1, lines 59-67 and column 2, line 59 to column 3, line 2)
- c) Different MW hyaluronate fractions penetrate to different layers and therefore it would have been obvious to create a composition with the necessary MW fraction to moisturize the desired skin depth.

The Examiner appears to assert that it would be routine optimization to find the appropriate MW fraction based on the asserted teaching in Balazs that different fractions of hyaluronate will moisturize different layers of the skin. Applicants traverse this rejection and withdrawal thereof is respectfully requested.

Examiner appears to be “over-interpreting” the reference teachings. As the Examiner notes, while Liu et al. discloses topical compositions having retinol and hyaluronic acid, the reference fails to teach any molecular weight for the hyaluronic acid, which is an essential feature of the instant invention.

The Examiner asserts that Balaz compensates for the deficiency of Liu et al. with the disclosure found column 1, lines 59-67. In this regard, the Examiner asserts that Balaz teaches that having the lowest molecular weight (10,000 - 200,000 Da) penetrate more deeply in the skin and moisturizes a deeper layer of the skin, which, in turn, explains that there is no effect on the surface. However, Balaz teaches the use of fragments of hyaluronic acid having a molecular weight between 10,000 – 200,000 Da or alternatively between 1.0 and 1.45 million Da. And, while Balaz may teach that a lower molecular weight fraction may penetrate the skin more deeply, there is not disclosure or suggestion in the reference that moisturizing the skin is in any way dependent on the molecular weight.

In addition, if one skilled in the art applied the Examiner’s reasoning to the evaluation of the reference teachings and concluded that hyaluronic acid with a molecular weight comprised between 10,000 and 200,000 Da has only an activity in the deepest layers of the skin and not on the surface it may be seen that the reference would in fact lead away from the invention. The first effect desired in the present invention is to provide a better skin, which is visible on the surface of the skin and not in the deep layers. Thus, the Examiner’s interpretation of Balaz is in opposite to the desired target of action of the present invention and one skilled in the art would conclude that it would not be possible to treat wrinkles, which are on the surface of the skin using the molecular weight fraction of hyaluronic acid recited in claim 1. As such, the one of ordinary skill in the art would not have been motivated to use hyaluronic acid with low molecular weight for the treatment of wrinkles with any expectation of success. As such, the instant invention is not obvious over the combined teachings of Liu et al. and Balaz and withdrawal of the rejection is respectfully requested.


Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact MaryAnne Armstrong, PhD,

Registration No. 40069, at the telephone number of the undersigned below to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Director is hereby authorized in this, concurrent, and future replies to charge any fees required during the pendency of the above-identified application or credit any overpayment to Deposit Account No. 02-2448.

Dated: February 10, 2011

Respectfully submitted,

By 
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